

MINUTES
ZONING BOARD OF APPEALS
AUGUST 5, 2005

Board members met at the Union Church parking lot at 10:00 a.m. to conduct a site visit at that location and to Peabody Drive in conjunction with hearings held on August 1st. Members present were Donald Hyde, Edmund Tarnuzzer, Michele Shoemaker (associate), Lee Heron (associate) and William Byron (associate).

317 Great Road - Union Church of Stow – The members were joined by Robert Mong, representing the church, and by Malcolm FitzPatrick, direct abutter. Mr. Mong advised that additional parking is needed to accommodate proposed expansion of the church. It is probable that the single-story projection to the rear will be raised to two stories. The septic system upgrade is an expensive project, so it is felt prudent to accomplish parking expansion at the same time as long as equipment is there, and to avoid the inconvenience of two separate disruptions. Even with the additional spaces, there will not be compliance with the requirements of the current zoning bylaw.

Mr. Mong pointed out the extent of the new parking area. Members walked the proposed westerly limits. Certain trees and other vegetation to be taken down were pointed out. An oak at the northwesterly corner nearer the FitzPatrick property is to be preserved, at his request. The raised and treed area at the road, between the two access drives, will be leveled off, graded and planted with small shrubs.

Mr. FitzPatrick, as he had at the hearing, took issue with the proposal. He objected to intrusion into setbacks. He had indicated the property line by placing orange cones. The access by easement to his property to the rear from the existing parking area was observed. Also observed was an access toward Crescent Street through the former Lewis property. Mr. FitzPatrick said that the land slopes steeply downward. Although he said it was a legal access, he does not utilize it as it is felt to be impractical. He showed the members the effects of snow storage where there was a great deal of sand piled along the edge of the rear parking area. Mr. Mong indicated that alternate snow storage was proposed with the expansion plan.

The members left the site at 11:00 a.m. to travel to Peabody Drive in Mr. Tarnuzzer's van. Following that site visit, they were to meet at the Town Building for discussion. Messrs. Mong and FitzPatrick were to join them.

28 Peabody Drive - Jennifer Smith – The members observed the 12' x 16' screened porch to the rear of the dwelling that is proposed to be replaced with a 16' x 16' three-season room. The rear yard slopes downward. There is currently a small garden or planter about three to four feet wide below the porch enclosed by a stone wall. The location of bedroom windows just above the porch roof was noted, indicating the roof could go no higher.

The Board met at the Town Building at 11:22 a.m. to commence discussion of its findings. Joining the meeting were Robert Mong and Malcolm FitzPatrick.

Union Church of Stow – Opening the discussion, Mr. Tarnuzzer stated he had no problem with setbacks as proposed, i.e., 18 feet on the FitzPatrick side and 10 feet on the rear side. There could be concern with the westernmost border with the abutter. A ten-foot vegetated border would protect the abutting property.

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Mr. Mong pointed out that the plan shows the current parking area location. The church is willing to accommodate the abutter anywhere along that area so as not to cause encroachment.

Mr. Tarnuzzer noted that the abutter should have advance notice and access to his property as construction proceeds. Mr. Mong pointed out that with paving there will be a period of time when it cannot be driven on, perhaps two or three days. The church was prepared to make an arrangement to allow Mr. FitzPatrick access. Suggestions were parking at the First Parish Church or the Police Station during that short time.

Mr. FitzPatrick stated his long-term issue concerns the buffer and driveway access. He showed on the plan how he would like the access to be configured. Mr. Hyde reminded that the Board can only act on what was submitted for consideration. A significantly modified plan would require a new submittal and hearing. Certain aspects could be negotiated between the parties. Mr. Mong believed the church would be reluctant to modify the plan if parking spaces were to be lost. The cost-to-benefit ratio of the project must be considered. There is willingness to negotiate to a point.

Mr. Byron felt that abutters should be protected with any project. The purpose of the buffer in this case is to block visibility. Based on the plan, he did not feel the visibility would change that much. Mr. FitzPatrick disagreed and again indicated on the plan where he would like the buffer to be. He was reminded that location is not on the table. Mr. Byron pointed out this is not a business or commercial site. Mr. Tarnuzzer suggested the Board could specify a buffer in the range of 0 to 25 feet. He would be willing to allow the parties to negotiate with regard to the driveway access. He did not feel the Board should become involved in the driveway issue.

Mr. Hyde suggested the discussion be continued to another day to allow the two parties to get together. It was decided to meet again on the matter on Friday, August 12th at 11:00 a.m. in the Town Building.

Jennifer Smith, 28 Peabody Drive – As the result of the site visit findings, the Board could find no problem with the request for special permit. On motion of Mr. Tarnuzzer, second by Mr. Heron, it was voted unanimously to grant a special permit for replacement of a 12' x 16' screened porch with a 16' x 16' three-season room.

Adjournment – The meeting was adjourned at 12:20 p.m.

Respectfully submitted,
Catherine A. Desmond
Secretary to the Board